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WORKMEN'S COMPENSATION ACT AS APPLYING TO NATIONAL BANKS.

The Virginia Workmen's Compensation Act (Acts, 1918, ch. 400) apparently applies to banks, including national banks, in view of the broad language of the statute providing that "employers" shall include, among others, "any firm, association or corporation" using the service of another for pay. And it seems that the act in question is not unconstitutional in requiring a national bank to appropriate a portion of its revenues to pay insurance premiums against accidents to its employees.

Legislation Impairing Efficiency as Federal Agency or Interfering with Banking Functions.—National banks being instrumentalities of the federal government, any state legislation which impairs their efficiency as such governmental agencies, or interferes with their legitimate business as banks, is unconstitutional and void. (*Dolly v. Abilene Nat. Bank*, 179 Fed. 461, 102 C. C. A. 607, 32 L. R. A., N. S., 1065; *Michie, Banks and Banking*, vol. 3, p. 1780, § 233 (2).) And where Congress has conferred upon national banks certain powers and immunities, the state can in no manner interfere therewith except as permitted by federal legislation. (*Farmer's, etc., Nat. Bank v. Dearing*, 91 U. S. 29, 23 L. Ed. 196). It has been held that a state cannot interfere with the transferable quality of national bank stock (*Doty v. First Nat. Bank*, 3 N. Dak. 9, 53 N. W. 77, 17 L. R. A. 259) or control and regulate the receipt of deposits (188 U. S. 220, 47 L. Ed. 452, 23 S. Ct. 288) or enact special criminal statutes applicable to national banks. (*Easton v. Iowa*, 188 U. S. 220, 47 L. Ed. 452, 23 S. Ct. 288).

Legislation Not Impairing Utility as Federal Agency.—The rule that a state can exercise no control over a national bank, or in any manner affect its operation except as Congress may permit, excepts the bank only from such legislation as tends to impair its utility as an instrumentality of the federal government. (*State v. Clement Nat. Bank*, 84 Vt. 167, 78 A. 944, Ann. Cas. 1912D, 22, judgment affirmed *Clement Nat. Bank v. State of Vermont*, 231 U. S. 120, 58 L. Ed. 147, 34 S. Ct. 31; *National*

Bank *v.* Comm., 9 Wall. 353, 19 L. Ed. 701.) In a great many respects a national bank must be subject to state laws. "As regards the construction of contracts, the acquisition and transfer of property, the collection of debts and the liability to suit, the bank remains under the control of the state." (Hawley *v.* Hurd, 72 Vt. 122, 47 Atl. 401, 402, 52 L. R. A. 195, 82 Am. St. Rep. 922, citing First Nat. Bank *v.* Kentucky, 9 Wall. 353, 19 L. Ed. 701.)

A statute which merely operates as an incidental restriction upon the business of a national bank, and touches only the general business relations of the bank, having no appreciable effect upon its continuance and utility as an agent of the federal government, is within the power of a state. (Hawley *v.* Hurd, 72 Vt. 122, 47 Atl. 401, 52 L. R. A. 195, 82 Am. St. Rep. 922.)

A state law may authorize the sale under execution of national bank stock (Braden's Estate, 165 Pa. 184, 30 Atl. 746) and may require cashiers of national banks to transmit to the clerks of the several towns in which any stockholders of national banks reside a list of the names of such stockholders. (Newman *v.* Wait, 46 Vt. 689, affirmed in 94 U. S. 527, 24 L. Ed. 181.

In Absence of Action by Congress.—A reasonable conclusion would seem to be that until Congress has acted, a national bank is subject to any state legislation which does not tend "to impair its utility as an instrumentality of the federal government." It is not perceived how the statute in question could have such effect.

And it would seem that the act would apply to national banks by analogy to the holding in the case of *Linstrom v. Mutual Steamship Co.* (Minn.), 156 N. W. 669, cited in note in L. R. A. 1916D, p. 936, which holds that the Minnesota Workmen's Compensation Act in its application to employment in interstate commerce by water is not invalid since Congress has not legislated upon that subject as to interstate commerce by water, and until it does so, such legislation is within the province of the several states.*

*See in accord *Stoll v. Pacific Coast S. S. Co.*, 205 Fed. 169, upholding the Washington Act; *Jensen v. Southern P. Co.*, 215 N. Y.

Police Power.—It is too broadly stated to say that a national bank, because created under and by authority of Congress, is entirely independent of all police authority of the state. (*State v. First Nat. Bank*, 2 S. Dak. 568, 51 N. W. 587.)

The regulation of the management of the industries of a state so as to provide compensation for injured employees is within the police power. (*Kentucky State Journal Co. v. Workmen's Compensation Board*, 161 Ky. 562, 170 S. W. 1166, L. R. A. 1916A, 389.)

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514, 109 N. E. 600, L. R. A. 1916A, 403; *In re Walker*, 215 N. Y. 529, 109 N. E. 604, upholding the New York Act; *Kennerson v. Thames Rowboat Co.*, 89 Conn. 367, 94 Atl. 372, L. R. A. 1916A, 436, upholding the Connecticut Act. A contrary holding is found in *State ex rel. Jarvis v. Daggett* (Wash.), 151 Pac. 648, L. R. A. 1916A, 446. As to the Washington Act, see also, *The Fred E. Saunders*, 208 Fed. 924, 212 Fed. 545.